

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
CHIEF JUDGE WILEY Y. DANIEL**

Courtroom Deputy: Robert R. Keech  
E.C.R./Reporter: Therese Lindblom

Date: January 13, 2010

Civil Action No: **08-cv-00540-WYD-BNB**

Counsel:

**JONATHAN AIN,**

William L. Keating  
Deidre E. Ostrowski

Plaintiff,

v.

**UNUM LIFE INSURANCE COMPANY OF  
AMERICA,**

Jack M. Englert, Jr.  
Robert M. Thomas

Defendant.

**COURTROOM MINUTES**

**TRIAL TO JURY (DAY 3)**

**9:15 a.m.** Court in Session - Jury enters

9:17 a.m. Plaintiff's witness **Lorie J. Rosen** resumes.

Direct examination by Plaintiff (Mr. Keating).

**EX ID: 36, 30, 19, E, 18, 19, E, 14, 17, 16, 11, 16, 136, 18, 8**

**Exhibit/s 30, 19, E (page 1 only), 17, 16, 8 (pages 1 through 14 only) RECEIVED.**

10:29 a.m. Jury excused

Court's remarks to counsel and parties about remaining civil and respectful.

**10:30 a.m.** Court in Recess

**10:53 a.m.** Court in Session - Jury enters

10:54 a.m. Plaintiff's witness **Lorie J. Rosen** resumes.

Direct examination by Plaintiff continues (Mr. Keating).

**EX ID: deposition of Lorie Rosen 1/8/09 for purposes of impeachment, 60**

11:07 a.m. Jury excused

Discussion and argument regarding objection by Defendant to exhibits 59 and 60.

11:09 a.m. Direct examination by Plaintiff continues (Mr. Keating).

**EX ID: 60, 59**

11:15 a.m. Further discussion and argument regarding objection by Defendant to exhibit 59, 60, and 61 - **SUSTAINED IN PART and OVERRULED IN PART**. Exhibit 61 shall be redacted as set forth by the Court on the record. Objection by Defendant is **SUSTAINED** as to exhibit 60 and **OVERRULED** as to exhibit 59.

11:32 a.m. Direct examination by Plaintiff continues (Mr. Keating).

11:33 a.m. Jury enters

Plaintiff's witness **Lorie J. Rosen** resumes.

Direct examination by Plaintiff continues (Mr. Keating).

**EX ID: 59, 61, 40, 28**

**Exhibit/s 59, 61 (as redacted), 40 RECEIVED.**

12:03 p.m. Jury excused

**ORDERED:** Plaintiff shall submit a paper version of redacted exhibit 61 after lunch.

**12:04 p.m.** Court in Recess

**1:42 p.m.** Court in Session - Jury not present

Discussion regarding schedule of witnesses this afternoon and tomorrow.

1:45 p.m. Jury enters

1:45 p.m. Plaintiff's witness **Lorie J. Rosen** resumes.

Cross examination by Defendant (Mr. Englert).

**EX ID: E, 18, 16, 9**

**Exhibit/s 9 RECEIVED.**

2:22 p.m. Plaintiff's witness **Mary Elizabeth Fuller** sworn.

Direct examination by Plaintiff (Mr. Keating).

**EX ID: 136**

**Exhibit/s 136 REFUSED.**

***Witness tendered and accepted as an expert.***

**3:21 p.m.** Court in Recess

**3:52 p.m.** Court in Session - Jury enters

3:54 p.m. Plaintiff's witness **Mary Elizabeth Fuller** resumes.

Direct examination by Plaintiff continues (Mr. Keating).

**EX ID: 30, 8, 23, 81, 66, 61, 89**

**Exhibit/s 81 (pages 2 and 3 only), 66 RECEIVED.**

4:57 p.m. Discussion regarding schedule for tomorrow.

5:00 p.m. Jury excused for the evening.

Discussion and argument regarding objection by Defendant to exhibit 89 -  
**SUSTAINED IN PART and OVERRULED IN PART as outlined by the Court.**

**ORDERED:** Defendant's Motion in Limine to Exclude Evidence Pertaining to Detective Biff Lagan, Colorado Division of Insurance, and Florida Division of Financial Services [129], filed November 9, 2009, is **GRANTED IN PART and DENIED IN PART**. Plaintiff's witness Mary Fuller is only allowed to testify on what information UNUM provided to Lagan and opine on whether providing such information was proper based on insurance industry standards.

**5:38 p.m.** Court in Recess - TRIAL CONTINUED

**TOTAL TIME: 5:51**